

SENATE BILL 1072  
By Ford J

AN ACT to enact the "Supreme Court Judge Election Matching Payment Campaign Fund" and to amend Tennessee Code Annotated, Title 17, Chapter 4, Part 1; Title 2, Chapter 8, Part 1; and Section 2-13-202, and any other section necessary to the implementation of this act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Supreme Court Judge Election Matching Payment Campaign Fund".

SECTION 2. As used in this part unless the context requires otherwise:

(1) "Authorized committee" means, with respect to a candidate for the office of judge of the supreme court of Tennessee, any political committee which is authorized in writing by such candidate to make an expenditure to influence the election of such candidate. Such authorization shall be addressed to the chair of such political committee, and a copy of such authorization shall be filed by such candidate with the commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) "Candidate" means an individual who seeks nomination for election to be a judge of the supreme court of Tennessee. For purposes of this item, an individual is considered to seek nomination for election if such individual:

(A) Takes the action necessary under the law to qualify for nomination for election;

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(B) Receives a contribution or incurs a qualified campaign expense; or

(C) Gives consent for any other person to receive a contribution or to incur a qualified campaign expense on such individual's behalf.

(3) "Commission" means the state election commission.

(4) "Coordinator" means the coordinator of elections.

(5) Except as provided by Section 13 of this act, the term "contribution" means:

(A) A gift, subscription, loan, advance, or deposit of money, or anything of value, the payment of which was made on or after the beginning of the calendar year immediately preceding the calendar year of the election with respect to which such gift, subscription, loan, advance, or deposit of money, or anything of value, is made, for the purpose of influencing the result of a primary election;

(B) A contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(C) Funds received by a political committee which are transferred to that committee from another committee.

(D) The payment by any person other than a candidate, or a candidate's authorized committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge, but,

(E) Does not include:

(i) except as provided in subdivision (D), the value of personal services rendered to or for the benefit of a candidate by an individual who receives no compensation for rendering such services to or for the benefit of the candidate; or

(ii) payments under Section 10 of this act.

(6) "Fund" means the Supreme Court Judge Election Matching Payment Campaign Fund.

(7) "Matching payment period" means the period beginning with the beginning of the calendar year in which a general election for the office of judge of the supreme court of Tennessee will be held and ending on the date of the election.

(8) "Political committee" means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing or attempting to influence, the nomination of any person for election to the office of judge of the supreme court of the state of Tennessee.

(9) "Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or of anything of value:

(A) Incurred by a candidate, or by such candidate's authorized committee, in connection with the candidate's campaign for nomination for election; and

(B) Neither the incurring nor payment of which constitutes a violation of any law of the United States or of Tennessee.

For purposes of this subdivision, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or the committee.

(10) "Treasurer" means the treasurer of the state of Tennessee.

SECTION 3. The state treasurer is authorized and directed to establish within the general fund the Supreme Court Judge Election Matching Payment Campaign Fund, as a restricted revolving account in the state treasury.

SECTION 4. There is hereby established a litigation tax of twenty-five cents (25¢) on each civil suit and in each criminal case instituted in a state or a local court. The clerk of each court collecting such tax shall transmit to the treasurer all revenue collected and the treasurer is authorized to hold and deposit all such revenue to the fund.

SECTION 5. Funds in the Supreme Court Judge Election Matching Payment Campaign Fund established by this act may be invested by the treasurer pursuant to policy guidelines, established by resolution of the funding board. The funding board shall establish the policy guidelines for investment of the Supreme Court Judge Election Matching Payment Campaign Fund in any manner which is lawful for the investment of state funds. All interest or other earnings shall be added to the corpus of the fund and shall remain a part of the fund.

SECTION 6. Any unencumbered or unexpended balance of this fund at the end of any fiscal year shall not revert to the general fund but shall be carried forward until expended in accordance with the provisions of this act.

SECTION 7. The state treasurer may deduct a reasonable service charge of not more than one percent (1%) of the proceeds from the fund pursuant to procedures established by the treasurer and the commissioner of finance and administration.

SECTION 8. The balance of the fund may be used for payments by the treasurer to the eligible candidates of a political party as determined by the state election commission.

SECTION 9. Prior to the matching payment period for each election for the office of judge of the supreme court of Tennessee, the commission shall determine the amount of funds available for entitlements for the election up to the limits set forth in this act. If there is insufficient money in the fund to reach the limits, money shall not be made available from any other sources to make payment. After each party has selected its nominee and each independent candidate has qualified, the commission shall determine the amount of funds available for individual candidate entitlements based on the number of candidates. Each

candidate shall be entitled to a pro rata share of funds available up to the limits set forth for each candidate.

SECTION 10. Upon receipt of a certification from the state election commission, but not before the beginning of the matching payment period, the treasurer shall promptly transfer the amount as determined by Section 9 of this act by the commission from the fund to the candidate.

SECTION 11.

(a) To be eligible to receive payments under this act, a candidate shall, in writing agree to:

(1) Obtain and furnish to the commission any evidence it may request of qualified campaign expenses.

(2) Keep and furnish to the commission any records, books, and other information it may request; and

(3) An audit and examination by the commission and to pay any amounts required to be paid under such section.

(b) To be eligible to receive payments under this act a candidate shall certify to the commission that:

(1) The candidate and such candidate's authorized committees will not incur qualified campaign expenses in excess of the limit under this act;

(2) The candidate is seeking the office of judge of the supreme court of Tennessee;

(3) The candidate has received contributions from fifty (50) persons in each of twenty (20) counties the aggregate of which exceeds two thousand five hundred dollars (\$2,500) in each county; and

(4) The contribution certified with respect to any one (1) person under subdivision (b)(3) does not exceed two hundred fifty dollars (\$250).

(c) No payment shall be made to any individual under Section 10 of this act if such individual ceases to be a candidate for election for judge of the supreme court of Tennessee; provided, however, the person shall still be eligible to continue to receive payments under Section 10 of this act to defray qualified campaign expenses incurred before the date such candidate withdraws as a candidate.

SECTION 12. No candidate shall knowingly incur qualified campaign expenses in excess of five hundred thousand dollars (\$500,000) for any election campaign.

SECTION 13.

(a) Any candidate who is eligible to receive payment under this act is entitled to payment in an amount up to two hundred fifty dollars (\$250) for each contribution received by such candidate on or after the beginning of the calendar year immediately preceding the calendar year of the supreme court judge election. Any amount of contribution from any person in excess of two hundred fifty dollars (\$250) will be disregarded for matching funds. For purposes of this section and Section 11(b)(3) of this act, the term "contribution" means a gift of money made by a written instrument which identifies the person making the contribution by full name, mailing address, occupation, and employer but does not include a subscription, loan, advance, or deposit of money, or anything described in subparagraph (B), (C), or (D) of Section 2(5) of this act.

(b) The total matching payments to which a candidate is entitled shall not exceed two hundred fifty thousand dollars (\$250,000).

However, if any candidate refuses to comply with the provisions of Section 11 of this act for accepting campaign contributions and contributes more than twenty-five thousand dollars (\$25,000) of such candidate's personal funds or the personal funds of such candidate's immediate family in connection with the campaign for election to the office of judge of the supreme court of Tennessee, then each candidate accepting

campaign contributions by complying with Section 11 of this act shall be entitled to receive matching payments in amounts twice those otherwise permitted by this subsection.

SECTION 14. Not later than ten (10) days after a candidate establishes eligibility to receive payments, the state election commission shall certify to the state treasurer the full amount to which such candidate is entitled.

SECTION 15.

(a) After each matching payment period, the commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and the authorized committees who received payments.

(b)(1) If the commission determines that any portion of the payments made to a candidate from the fund was used for a purpose other than:

(A) To defray the qualified campaign expenses with respect to which such payment was made, or

(B) To repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses, it shall notify such candidate of the amount so used, and the candidate shall pay to the treasurer an amount equal to such amount.

(2) Amounts received by a candidate from the fund may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred, for a period not exceeding six (6) months after the end of the matching payment period. After all obligations have been liquidated, that portion of any unexpended balances remaining in the candidate's account which bears the same ratio to the total unexpended balance as the total amount received from the matching payment account bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the fund.

(c) No notification shall be made by the commission under subsection (b) of this section more than three (3) years after the end of such period.

(d) All payments received by the treasurer under subsection (b) shall be deposited by the treasurer into the fund.

SECTION 16. The commission shall, as soon as practicable, after each payment period submit a full report to the general assembly setting forth:

(1) The qualified campaign expenses incurred by each candidate and such candidate's authorized committee;

(2) The amounts certified by it under Section 14 of this act for payment to each eligible candidate; and

(3) The amount of payments, if any required from candidates under Section 15 of this act, and the reason for each payment required.

SECTION 17. The coordinator is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 18. Tennessee Code Annotated, Title 2, Chapter 8, Part 1, is amended by adding the following as a new section to be appropriately designated:

Results of election for Supreme Court Judge. - The candidate receiving the highest number of votes for any one (1) grand division of the state, and the two (2) candidates receiving the highest number of votes for the "state at large," shall be declared to be the five (5) judges of the Supreme Court of the state. Provided, that if the two (2) candidates receiving the highest number of votes for Supreme Court judge from the state at large reside in the same grand division of the state, the candidate receiving the highest number of votes shall be declared elected and the candidate receiving the second highest number of votes from a separate grand division of the state shall be declared elected.



SECTION 19. Tennessee Code Annotated, Title 17, Chapter 4, is amended by deleting the word “appellate” whenever it may appear and substituting instead the words “intermediate appellate”.

SECTION 20. Tennessee Code Annotated, Section 17-4-109(f), is amended by deleting the subsection in its entirety.

SECTION 21. This act shall take effect on July 1, 1997 the public welfare requiring it.

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